

Filed for intro on 01/17/2002
HOUSE BILL 2322 By
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SENATE BILL 2594
By Burks

AN ACT To create the "Tennessee Rural Internet Access Authority Act."

WHEREAS, access to computers and the Internet, along with the ability to effectively use these technologies, are becoming increasingly important for full participation in America's economic, political, and social life; and

WHEREAS, affordable, high-speed Internet access is a key competitive factor for economic development and quality of life in the new economy of the global marketplace; and

WHEREAS, in the digital age, universal connectivity at affordable prices is a necessity for business transactions, education and training, health care, government services, and the democratic process; and

WHEREAS, unequal access to computer technology and Internet connectivity by income, educational level or geography could deepen and reinforce the divisions that exist in our society; and

WHEREAS, the intent of the Rural Internet Access Authority is to close this digital divide for the citizens of Tennessee; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This chapter shall be known and may be cited as the Tennessee Rural Internet Access Authority Act.

SECTION 2. As used in this chapter, unless the context otherwise requires:

- (1) "Authority" means the Tennessee Rural Internet Access Authority;
- (2) "Commission" means the governing body of the authority;
- (3) "High-speed broadband Internet access" means Internet access with transmission speeds of at least one hundred twenty-eight (128) kilobits per second for residential customers and at least two hundred fifty-six (256) kilobits per second for business customers; and
- (4) "Rural county" means a county with a density of fewer than two hundred (200) people per square mile based on the 2000 federal census or any subsequent federal census.

SECTION 3.

(a) The Tennessee Rural Internet Access Authority is created within the department of commerce and insurance and, notwithstanding any other provision of law, is subject to the direction and supervision of the commissioner of commerce and insurance only with respect to coordinating management functions. These functions of the commissioner are ministerial and shall be performed only pursuant to the direction and policy of the commission.

The purpose of the authority is to manage, oversee, and monitor efforts to provide rural counties with high-speed broadband Internet access. The authority shall also serve as the central rural Internet access policy planning body of the state and shall communicate and coordinate with state, regional, and local agencies and private entities in order to implement a coordinated rural Internet access policy.

(b)

(1) The authority shall be composed of ten (10) members. The members shall be the commissioner of commerce and insurance, the comptroller of the treasury, the state treasurer, two (2) members appointed by the speaker of the senate, and two (2) members appointed by the speaker of the house of representatives, and three (3) members to be appointed from the public at-large. Each appointive member shall serve for a term of three (3) years or until that member's successor is duly appointed and qualified.

(2) Whenever vacancies occur in membership of the authority, such vacancies shall be filled in a like manner.

(3) The authority shall be a body corporate and politic constituting a public corporation, governmental agency and instrumentality of the state by the name of "the Tennessee Rural Internet Access Authority," with perpetual succession and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers.

(c) The members of the authority shall receive no compensation for their services, but shall be reimbursed for any reasonable expenses necessarily incurred in the performance of their duties as members.

(d) Six (6) members of the authority shall constitute a quorum for the transaction of business, and, in the absence of a quorum, one (1) or more members may adjourn from time to time, until a quorum is convened. The governor shall be an ex officio nonvoting member of the authority. The members of the authority shall elect a chair. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive

such compensation as may be determined by the authority, with approval of the commissioner of personnel, to be paid from the budgeted funds of the department of commerce and insurance. The treasurer shall give bond to the authority and the state conditioned upon faithful accounting for all funds coming into the treasurer's custody. Such bond shall be in such amount as the authority may prescribe, with corporate surety given by a surety company qualified to do business in the state. The premium on such bond is to be paid by the authority. The authority shall maintain an office on premises which shall be provided by the department without cost to the authority. The secretary of the authority shall maintain complete records of the authority's actions and proceedings, which shall be open to inspection by the public at reasonable times.

It is the intent of the General Assembly that the appointing authorities, in making the at-large appointments, shall appoint members who represent the geographic, gender, and racial diversity of the state, members who represent rural counties, and members who represent the communications industry, which may include local telephone exchange companies, rural telephone cooperatives, Internet service providers, commercial wireless communications carriers, and other communications businesses.

(e) Except as provided in subsection (g) of this section, all terms of office shall commence on August 1 of the year the appointment is made. The appointing officers shall designate one-half (1/2) of their appointees to serve one-year terms; members may serve up to four (4) consecutive one-year terms. The appointing officers shall designate their remaining appointees to serve three-year terms; members may serve up to two (2) consecutive three-year terms.

(f) Annually, at its first meeting of the year, the authority shall elect a chair, vice chair, and a secretary-treasurer and shall set a regular time and place for meetings of the authority.

(g) All members of the commission shall remain in office until their successors are appointed and qualified. Vacancies shall be filled in the same manner as original appointments for any unexpired term. A person appointed to fill a vacancy must qualify in the same manner as a person appointed for a full term.

(h) The appointing authority may remove any member of the commission for misfeasance, malfeasance, or nonfeasance.

(i) No part of the revenues or assets of the authority shall inure to the benefit of, or be distributable to, the members of the commission or officers or other private persons. The members of the commission shall receive no salary for their services but may receive per diem and allowances.

(j) If any member, officer, or employee of the authority is interested either directly or indirectly, or is an officer or employee of, or has an ownership interest in, any firm or corporation, not including units of local government, interested directly or indirectly, in any contract with the authority, the member, officer, or employee must disclose the interest to the commission, which must set forth the disclosure in the minutes of the commission. The member, officer, or employee having an interest may not participate on behalf of the authority in the authorization of any contract.

SECTION 4.

(a) The authority shall have the following powers:

(1) To employ, contract with, direct, and supervise all personnel and consultants.

(2) To apply for, accept, and utilize grants, contributions, and appropriations in order to carry out its duties and goals as defined in this part.

(3) To enter into contracts and to provide support and assistance to local governments and nonprofit entities, in carrying out its duties and goals under this part.

(4) To review and recommend changes in all laws, rules, programs, and policies of this state or any agency or subdivision thereof to further the goals of rural Internet access.

(b) The authority shall have the following duties:

(1) To develop and recommend to the governor, the general assembly, and the local development authority a plan to provide rural counties with high-speed broadband Internet access.

(2) To propose funding that may be needed from the rural redevelopment authority and from other appropriate sources for incentives for the private sector to make necessary investments to achieve the authority's goals and objectives.

(3) To set specific targets and milestones to achieve the goals and objectives set out in subsection (c) of this section.

(c) The goals and objectives of the authority are:

(1) Local dial-up Internet access provided from every telephone exchange within one (1) year.

(2) High-speed Internet access available to every citizen of this state within three (3) years, at prices in rural counties that are comparable to prices in urban areas of Tennessee.

(3) Significant increases in ownership of computers, related web devices, and Internet subscriptions promoted throughout this state.

(4) Accurate, current, and complete information provided through the Internet to citizens about the availability of present telecommunications and Internet services with periodic updates on the future deployment of new telecommunications and Internet services.

(5) Development of government Internet applications promoted to make citizen interactions with government agencies and services easier and more

convenient, and to facilitate the delivery of more comprehensive programs, including training, education, and health care.

(6) Open technology approaches employed to encourage all potential providers to participate in the implementation of high-speed Internet access with no technology bias.

(7) To coordinate activities, conduct and sponsor research, and recommend and advocate actions, including regulatory and legislative actions to achieve its goals and objectives.

(d) The authority does not have the power of eminent domain or the power to levy any tax.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. For purposes of establishing the authority this bill shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 2003.